

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**KEVIN CONNORS**

**TDCJ No. 1284939**

*Plaintiff,*

**v.**

**EDGAR HULIPAS, et al.,**

*Defendant.*

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**Civil Action No. 4:17-cv-1512**

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**JOINT DISCOVERY/CASE MANAGEMENT PLAN UNDER RULE 26(f)  
FEDERAL RULES OF CIVIL PROCEDURE**

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- 1. State when the parties conferred as required by Rule 26(f), and identify the counsel who conferred.**

Date: August 21, 2017.  
Counsel for Plaintiff: Jerold D. Friedman  
Counsel for Defendants: Bruce Garcia, on behalf of TDCJ; Kelsey Warren, on behalf of UTMB, Dr. Edgar Hulipas, and Terry Speer, R.N.

- 2. List the cases related to this one that are pending in any state or federal court with the case number and court.**

None.

- 3. Briefly describe what the case is about.**

Plaintiff brings this suit under 29 U.S.C. § 794, 42 U.S.C § 12101, and 42 U.S.C. § 1983 alleging Defendants were deliberately indifferent to his serious medical needs in violation of the 8th Amendment to the U.S. Constitution. Defendants deny these claims.

- 4. Specify the allegation of federal jurisdiction.**

28 U.S.C. § 1331.

- 5. Name the parties who disagree and the reasons.**

Defendants do not contest jurisdiction.

**6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.**

Plaintiff was transferred from the Darrington Unit to the Estelle Regional Medical Unit, where Plaintiff alleges medical staff continue to deny Plaintiff of his serious medical needs. Plaintiff will move to add as defendants the local medical director, Dr. Williams, and regional medical director, Dr. Litincum, within 30 days.

**7. List anticipated interventions.**

None.

**8. Describe class-action issues.**

None.

**9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.**

The parties agree to make initial disclosures by October 2, 2017, and to supplement their initial disclosures if necessary.

**10. Describe the proposed agreed discovery plan, including:**

**A. Responses to all the matters raised in Rule 26(f).**

Plaintiff shall make Rule 26(f) disclosures within 30 days of this Case Management Plan being approved or a later date if mutually agreed by defendants.

**B. When and to whom the plaintiff anticipates it may send interrogatories.**

Plaintiff shall send his interrogatories and requests for admissions to each defendant.

**C. When and to whom the defendant anticipates it may send interrogatories.**

Defendants may send interrogatories and requests for admissions to plaintiff.

**D. Of whom and by when the plaintiff anticipates taking oral depositions.**

Plaintiff intends to depose Defendants and their staff. Plaintiff may depose witness inmates as they are identified. Plaintiff will depose any experts identified by Defendants. Plaintiff anticipates completing depositions by the proposed discovery deadline, June 1, 2018.

**E. Of whom and by when the defendant anticipates taking oral depositions.**

Defendants may depose the plaintiff and any experts named by plaintiff. Defendants may also depose any fact witnesses listed by Plaintiff and any witnesses that are unavailable for trial, if necessary. Defendants anticipates completing depositions by the proposed discovery deadline, June 1, 2018.

**F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.**

Plaintiff anticipates being able to designate experts and provide expert reports no later than February 16, 2018.

Defendants will designate experts and provide expert reports by April 2, 2018, 45 days after plaintiff designates experts.

**G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).**

Plaintiff will depose Defendant's experts. Those depositions can be completed within 60 days of designation.

**H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).**

Defendants will depose plaintiff's experts. Those depositions can be completed within 60 days of designation.

**11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.**

The Parties are in agreement.

**12. Specify the discovery beyond initial disclosures that has been undertaken to date.**

None.

**13. State the date the planned discovery can reasonably be completed.**

June 1, 2018.

- 14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.**

Defendants believe settlement discussions are premature at this time. Plaintiff is open to reasonable settlement offer and terms including actual performance of medical prescriptions.

- 15. Describe what each party has done or agreed to do to bring about a prompt resolution.**

Defendants are investigating Plaintiff's claims.

- 16. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.**

The parties believe settlement discussions and mediation are premature and would not be productive based on the current information available. After discovery is substantially complete, the parties will re-evaluate their position regarding this matter.

- 17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.**

The parties do not consent to a magistrate.

- 18. State whether a jury demand has been made and if it was made on time.**

Yes, a timely jury demand has been made.

- 19. Specify the number of hours it will take to present the evidence in this case.**

At this time, Plaintiff estimates it will take approximately 4 days to present all evidence.

At this time, Defendants estimate it will take approximately 3 days to present all evidence.

- 20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.**

None.

- 21. List other motions pending.**

None.

**22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.**

In its Order for Service and Order for Spears Hearing, the Court instructed Defendants that they need not file written answers or other responsive pleadings prior to the *Spears* hearing.<sup>1</sup> The Court subsequently issued its Order Cancelling *Spears* Hearing, but has not re-set the deadline for Defendants to file a pre-answer motion to dismiss or, alternatively, appear and answer.<sup>2</sup>

**23. Certify that all parties have filed Disclosure of Interested Parties as directed in the Order for Conference and Disclosure of Interested Parties, listing the date of filing for original and any amendments.**

Plaintiff certifies that he has filed his Disclosure of Interested Parties.

Defendants Dr. Edgar Hulipas, Terry Speer, R.N., and UTMB hereby certify that they filed their Disclosure of Interested Parties.<sup>3</sup>

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<sup>1</sup> DE 7 June 5, 2017

<sup>2</sup> DE 15 June 29, 2017

<sup>3</sup> DE 17 July 14, 2017

**24. List the names, bar numbers, addresses, and telephone numbers of all counsel.**

/s/ Jerold D. Friedman

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Respectfully submitted,

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**ATTORNEY FOR PLAINTIFF**

**NOTICE OF ELECTRONIC FILING**

I, **KELSEY L. WARREN**, Assistant Attorney General of the State of Texas, do hereby certify that I have electronically submitted for filing a correct copy of the foregoing in accordance with the Electronic Case Files system of the United States District Court for the Southern District of Texas, on August 22, 2017.

/s/ Kelsey L. Warren  
**KELSEY L. WARREN**  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I, **KELSEY L. WARREN**, Assistant Attorney General of the State of Texas, certify that a true and correct copy of the foregoing has been served by placing it in United States mail, on August 22, 2017, addressed to all counsel of record.

/s/ Kelsey L. Warren  
**KELSEY L. WARREN**  
Assistant Attorney General